

REMARKS

Applicants respectfully request reconsideration and allowance of this application in view of the amendments above and the following comments.

New claim 17 is added which finds clear support in the instant specification, for example, in Figures 4-7, 10a, 11, 14-16, 18 and 19. Applicants respectfully submit that claim 17 does not introduce new matter. An early notice to that effect is earnestly solicited.

The original declaration was considered to be defective. In response, Applicants submit a new declaration.

Claims 1-10 and 14 were rejected under 35 USC § 102(b) as being anticipated by Kyung et al. ("Kyung"), US 2002/0127510. In response, Applicants would remind the Examiner that anticipation requires that each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference, and, further, the absence in the prior art reference of even a single one of the claim elements is sufficient to negate anticipation. *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). According to the Examiner, Kyung discloses a one-piece dental implant comprising a threaded shaft **30** tapering to a point **32**. However, Applicants respectfully disagree. Kyung himself describes all of element **32** as the point. See, column 3, lines 64-65. In other words, Kyung describes a threaded shaft **30** that ends in a point **32**. Moreover, Kyung's threaded shaft **30** does not taper to point **32**, but, rather, is **straight**. Consequently, Kyung's implant does not meet the terms of the instant claims.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw this rejection. An early notice that this rejection has been reconsidered and withdrawn is earnestly solicited.

Claims 1-4, 15 and 16 were rejected under 35 USC § 102(b) as being anticipated by Silverman, US 3,514,858. According to the Examiner, Silverman discloses threaded shaft **36** tapering to a point. In response, Applicants respectfully submit that Silverman discloses only a **threaded point**. A shaft needs to resemble a cylinder at least superficially over at least some of its length. Silverman's threaded end is respectfully a threaded point, not a threaded shaft. Silverman's threaded end is conical over its entire length. Respectfully, Silverman's implant does not comprise a threaded shaft, let alone one tapering to a point as required by the instant claims.

Moreover, claim 16 cannot in any case be included in this rejection because claim 16 requires in b) that the implant or the implant + retrofit head be inserted **“through gum tissue overlying the jaw-bone** of the patient into the jaw-bone of the patient.” Silverman teaches at column 5, lines 44-47, that prior to implant insertion, “the gum is cut thereabout,” i.e., removed, and holes are then drilled into the mandible or jaw bone. There is no teaching or suggestion that the implant or implant + retrofit head are inserted through the gum tissue into the bone beneath, as required by the instant claims.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw this rejection as well. An early notice that this rejection has been reconsidered and withdrawn is also earnestly solicited.

Claims 1-13, 15 and 16 were rejected under 35 USC § 102(b) as being anticipated by Weissman, US 2002/0142265. In response, Applicants respectfully disagree that Weissman's element **26** is a “head.” It's nothing more than an untapered screw shaft at the end opposite the tapered shaft. In order to make the distinction clear, Applicants have amended claim 1 to require that the head is **not** threaded. Applicants respectfully submit that the new language is fairly supported by the instant specification and drawings, showing a large number of head configurations, none of which are threaded. Thus, the original specification clearly conveys to persons skilled in the art that at the time of filing the instant application, Applicants had possession of a large number of embodiments with unthreaded

heads. Accordingly, Applicants submit that the amendment to claim 1 does not introduce new matter.

Further on this point, Applicants respectfully remind the Examiner that in determining whether an amendment to a claim constitutes new matter, the question is not whether the added *word* is a word that is used in the application as filed, but whether the *concept* embodied by the added word is present in the original specification as filed. *See, e.g., In re Anderson*, 176 USPQ 331, 336 (CCPA 1973). As indicated, the original specification clearly conveys the concept of unthreaded heads. Consequently, adding the requirement that the head is not itself threaded does not introduce new matter.

Moreover, claim 10 should not be included in this rejection in any event. Claim 10 requires that the dental implant be inserted by gripping the head with a tool or with one's fingers and advancing the dental implant through the gum tissue into the jaw-bone of the patient. The Examiner has not dealt with these limitations in her statement of the rejection.

Likewise claim 12 requires that a removable prosthesis be formed around a keeper cap containing an O-ring-shaped insert or a plastic insert, and that the removable prosthesis is removably secured by attaching the keeper cap via said O-ring-shaped insert or said plastic insert to the dental implant. The Examiner has not dealt with these limitations either in her statement of the rejection.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw this rejection as well. An early notice that this rejection has been reconsidered and withdrawn is also earnestly solicited.

Claims 2-4 and 7 were rejected under 35 USC § 112, second paragraph, as being indefinite. In response, Applicants respectfully request that the Examiner reconsider and withdraw this rejection. Clause b) of claim 1 represents three alternatives for the head shape:

- i) the head has a shape which is capable of accepting and releasably retaining a keeper cap or an O-ring;
- ii) the head has a shape which is capable of accepting and releasably retaining a dental wire; or
- iii) the head has a shape which is capable of accepting and releasably retaining an O-ball.

Claim 2 requires alternative i).

Claim 3 requires alternative ii).

Claim 4 requires alternative iii).

Clearly, claims 2-4 are species of the alternatives of claim 1 and, therefore, not of the same scope as claim 1, and, thus, more limiting than claim 1. Whereas claim 1 is generic to all three alternatives, each of claims 2-4 specifies one alternative.

With respect to claim 7, claim 1 is generic to both regular and irregular shapes, whereas claim 7 specifies an irregular shape. Clearly, claim 7 further limits claim 1.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw this rejection. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited.

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for immediate allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,
NORRIS MC LAUGHLIN & MARCUS, P.A.

By /Kurt G. Briscoe/
Kurt G. Briscoe
Attorney for Applicant(s)
Reg. No. 33,141
875 Third Avenue - 18th Floor
New York, New York 10022
Phone: (212) 808-0700
Fax: (212) 808-0844